

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY TOKYO

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E.O. 11652: N/A

TAGS: ETRD, JA

SUBJECT: TRADE FACILITATION COMMITTEE CASE -- BRIGHT STAR

1. SUMMARY: USDOC FORWARDING NEW CASE FOR TFC CONSIDERATION CONCERNING DISCRIMINATORY STANDARDS REQUIREMENT FOR APPROVAL OF A FOREIGN INDUSTRIAL SAFETY FLASHLIGHT. RESEARCH INSTITUTE OF INDUSTRIAL SAFETY (RIIS) OF THE MINISTRY OF LABOR (MOL) IS THE CONCERNED JAPANESE GOVERNMENT AGENCY. END SUMMARY

2. FOLMER ANDERSEN, EXPORT COORDINATOR FOR BRIGHT STAR INDUSTRIES, INC., WROTE USDOC (LETTER WITH EXPLANATORY ENCLOSURES BEING POUCHED TO EMBASSY) ABOUT REFUSAL OF MOL TO CONSIDER HIS COMPANY'S PROPOSED APPLICATION FOR APPROVAL OF A BRIGHT STAR INDUSTRIAL SAFETY FLASHLIGHT, MODEL 2324J-3, WHICH WAS DESIGNED TO NEW JAPANESE STANDARDS FOR EXPLOSION TESTING AND FLAME PROPAGATION, UNLESS THE PRODUCT

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FIRST OBTAINED OTHER FOREIGN TEST APPROVALS. A SECONDARY QUESTION IS WHETHER MOL WOULD ACCEPT A TEST REPORT BY AN INDEPENDENT JAPANESE TEST LABORATORY ON BEHALF OF BRIGHT STAR, IN LIEU OF TESTING BY BRIGHT STAR OR ITS IMPORTER, TO ESTABLISH COMPLIANCE WITH JAPANESE REGULATIONS. COMPLAINANT SUGGESTS, AND USDOC CONCURS, THAT TFC CONSIDER FOR THE TIME BEING ONLY THE PRIMARY QUESTION OF WHETHER THE REQUIRE-

MENT FOR FOREIGN APPROVAL OF IMPORTED PRODUCTS PRIOR TO CONSIDERATION OF JAPANESE APPROVAL IS DISCRIMINATORY. AVOIDANCE OF THE SECONDARY ISSUE OF WHETHER BRIGHT STAR'S PRODUCT ACTUALLY CONFORMS TO JAPANESE STANDARDS AND WHETHER THIS CAN BE ESTABLISHED THROUGH AN INDEPENDENT JAPANESE TEST LABORATORY SHOULD PREVENT THE CASE FROM GETTING BOGGED DOWN IN TECHNICAL DETAILS.

3. ACCORDING TO MR. ANDERSEN, IF A JAPANESE FIRM HAD MANUFACTURED AN INDUSTRIAL SAFETY FLASHLIGHT WITH SPECIFICATIONS IDENTICAL TO THOSE OF BRIGHT STAR'S PRODUCT, THEN APPLICATION FOR MOL APPROVAL WOULD HAVE BEEN CONSIDERED BASED ON TEST RESULTS EVIDENCING COMPLIANCE WITH JAPANESE STANDARDS WITHOUT ANY NEED FOR APPROVALS OUTSIDE OF JAPAN. HOWEVER, A FOREIGN FIRM SUCH AS BRIGHT STAR CANNOT APPLY FOR APPROVAL WITH ANY TEST RESULTS UNTIL THE APPROVAL OF FOREIGN TEST ORGANIZATIONS WHICH HAVE A STANDARD SIMILAR TO THAT OF JAPAN (E.G. PTB OF THE FRG OR BASEEFA OF THE UK) IS OBTAINED. THIS WOULD APPEAR TO BE A JAPANESE TRADE PRACTICE OR PROCEDURE WHICH DISCRIMINATES AGAINST IMPORTS IN FAVOR OF DOMESTIC PRODUCTS.

4. ACTION REQUESTED: REQUEST EMBASSY CORROBORATE INFORMATION IN POUCHED MATERIAL WITH BRIGHT STAR DISTRIBUTOR (D. KUGAI, PRESIDENT OF OSAKA SHIP SUPPLIES CENTER, INC.)
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AND WITH MOL. IF FACTS ARE CONFIRMED, CASE SHOULD BE RAISED IN TFC AS SOON AS POSSIBLE. VANCE

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